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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,653	11/26/2003	Edmund A. Flexman	AD6924 US NA	8786

23906 7590 11/01/2006

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WILMINGTON, DE 19805

EXAMINER

KRUER, KEVIN R

ART UNIT PAPER NUMBER

1773

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/723,653

Applicant(s)

FLEXMAN ET AL.

Examiner

Kevin R. Kruer

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 16 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Advisory Action

Applicant's arguments filed October 16, 2006 have been fully persuasive but are not persuasive.

Applicant argues one of the primary objectives of the present invention is to obtain a polyoxymethylene composition having increased surface adhesion in order to improve adhesion to other surfaces. According to applicant, the skilled artisan looking to solve the same problems contemplated by Applicants would not be motivated to combine the references in the manner suggested by Examiner. The examiner reaches this conclusion because the proposed combination does not rely upon the motivating factors in the present claimed invention, specifically, improved surface adhesion. Said argument is noted but is not persuasive. The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessarily that the prior art suggest the combination to achieve the same advantage or result discovered by applicant.

Applicant further argues the LDPE of Kosinski does not read upon the non-acetal polymer of the claimed composition. Said argument is noted but is not persuasive because the polyamide taught in Kuduo, not the LDPE of Kosinski, is relied upon to read on the claimed non-acetal polymer of claim 1. The examiner apologizes for the misstatement in the final rejection but notes the rejection stands because the prior art combination clearly reads on all the elements of the claimed invention.

With respect to the adhesive properties and stability of the claimed invention, Applicant argues the claimed composition exhibits unexpected results. With regards to

Art Unit: 1773

stability, the examiner respectfully disagrees and notes that Kuduo teaches the combination of POM and polyamide is stable. Furthermore, applicant does not point to data in the specification supporting the argument of unexpected results with respect to stability. Applicant is reminded that counsel's arguments cannot take the place of evidence. With respect to adhesion, applicant argues that in the present applicant the applicants discuss how surface adhesion is improved in the present invention by including a component that has a melt viscosity that is lower than the melt viscosity of the POM. Said argument is not persuasive because it is not commensurate in scope with the claims. Specifically, the claims do not limit the melt viscosity of the non-acetal component. Furthermore, said limitation is not directly implied by the limitation "on or near the surface of the substrate."

With respect to the rejection based upon Nakamura in view of Kosinski, Applicant argues the comparative examples demonstrate that the claimed invention have significantly better adhesion to other materials than substrate comprising no non-acetal thermoplastic polymer. Said argument is not persuasive because said showing is not commensurate in scope with the claims. It does not show all the claimed non-acetal resins work. Furthermore, as argued above, the showing requires that the melt viscosity of the non-acetal resin be controlled relative to the melt viscosity of the POM.

Thus, applicant's arguments are not persuasive and the rejections are maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kevin R. Kruer
Patent Examiner-Art Unit 1773